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COMMITTEE ON THE RIGHTS OF THE CHILD

Tenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Ukraine

1. The Committee considered the initial report of Ukraine (CRC/C/8/Add.10/Rev.1) at its 239th, 240th, 241st and 242nd meetings (CRC/C/SR.239-242), held on 2 and 3 November 1995 and adopted* the following observations:

A. Introduction

2. The Committee expresses its appreciation to the Government of Ukraine for the submission of its initial report and its openness and fruitful dialogue. The Committee is encouraged by the frank and cooperative tone of the discussion, in which the representatives of the State party indicated not only the policy and programme directions, but also the difficulties encountered during implementation of the Convention.

B. Positive aspects

3. The Committee takes note of the attention paid by the Government to the situation of children in the present period of political transition.

4. The Committee welcomes the establishment of mechanisms to deal with children's issues and the question of children's rights, in particular the Parliamentary Commission on Health Care, Mother and Child Welfare with its departments and regional divisions, and the Presidential Committee for Women's, Maternal and Children's Affairs.

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* At the 259th meeting, held on 17 November 1995.

5. The Committee notes with appreciation the important efforts by the Government in the field of law reform, especially the revision of the Constitution with a view to incorporating the rights of the child, and several laws such as the Family Code and the Penal Code, which aim to promote and protect children's rights.

6. The Committee also welcomes the adoption by the Government of a number of national programmes aiming at the effective implementation of children's rights in the country and the establishment of a voluntary fund to support children under the auspices of the Parliamentary Commission on Health Care, Mother and Child Welfare.

C. Factors and difficulties impeding the implementation of the Convention

7. The Committee notes the difficulties facing Ukraine in the present period of political transition and in a climate of social change and deep economic crisis. The Committee also notes the problems relating to the transition economy and that the situation of many children has worsened as a consequence of growing poverty and increasing unemployment. The Committee recognizes that the State party is experiencing major difficulties in countering the negative consequences of the Chernobyl nuclear plant disaster, in particular on the environment and on the physical and psychological health of the population, including children.

D. Principal subjects of concern

8. The Committee expresses its concern as to full compatibility of national legislation, measures and programmes with the provisions and principles of the Convention, particularly with regard to the principles of non-discrimination (art. 2), including in relation to the different age of marriage for girls and boys, the best interests of the child (art. 3) and the right of the child to express his/her opinion in all decisions affecting him/her (art. 12). The Committee also notes that there is a discrepancy in the legislation between the age for completion of mandatory education, which is 15, and the minimum age for labour, which is 16.

9. The Committee is concerned at the insufficient budgetary allocation provided for the implementation of economic, social and cultural rights of children.

10. The Committee is concerned at the insufficient attention paid to the need for an efficient coordinating and monitoring mechanism that could provide a systematic and comprehensive compilation of data and indicators on all areas covered by the Convention and in relation to all groups of children, including children in single-parent families, children of divorced parents, abandoned children and institutionalized children. Such a mechanism would enable the Government to identify areas of concern and to help to define strategies to address them.

11. The Committee is worried by the high rate of abandonment of children, especially new-born babies, and the lack of a comprehensive strategy to assist vulnerable families. This situation can lead to illegal intercountry adoption or other forms of trafficking and sale of children. In this context the

Committee is also concerned about the absence of any law prohibiting the sale and trafficking of children, and the fact that the right of the child to have his/her identity preserved is not guaranteed by the law.

12. The Committee expresses its concern at the health status of children, particularly in the aftermath of the Chernobyl nuclear disaster, the increasing child mortality rate, the apparent priority given to curative rather than preventive health care, the low prevalence of breast-feeding, the high number of abortions and insufficient health, education and services on family planning, and the discrepancy between the urban and rural health systems.

13. The Committee is concerned about the absence in Ukraine of a programme involving social work. In particular, the Committee expresses its concern at the situation of the institutionalization, treatment and protection of handicapped children. Alternatives to institutionalization are not sufficiently taken into account; support services to parents who keep their handicapped child at home are inadequate.

14. The Committee regrets that appropriate measures have not yet been taken to effectively prevent and combat ill-treatment of children in schools or in institutions where children may be placed. The Committee is also preoccupied by the existence on a large scale of child abuse and violence within the family and the insufficient protection afforded by the existing legislation and services in that regard. The problem of sexual exploitation of children also requires special attention.

15. The Committee is concerned by the absence of a national information and dissemination strategy regarding the Convention on the Rights of the Child.

16. The present situation in the field of the administration of juvenile justice is a matter of concern to the Committee.

E. Suggestions and recommendations

17. The Committee encourages the Government of Ukraine to pursue the revision of the legislative framework in order to fully reflect the Convention and ensure the realization of children's rights in relation to all the children subject to the jurisdiction of Ukraine, and full compliance with the provisions and principles of the Convention on the Rights of the Child, especially the principles of non-discrimination (art. 2) and the best interests of the child (art. 3), the right to life, survival and development (art. 6) and the right of the child to express his/her opinion in all decisions affecting him/her (art. 12). The Committee suggests that legislation concerning the age of mandatory education and that concerning the minimum age for employment be adjusted and that the age of marriage for girls and boys be the same.

18. The Committee recommends that the State party strengthen the coordination between the different governmental mechanisms involved in children's rights, both at the national and local levels, with a view to developing a comprehensive policy on children and ensuring an effective evaluation of the

implementation of the Convention on the Rights of the Child in the country. Closer cooperation with non-governmental organizations should be promoted.

19. The Committee recommends that the State party undertake to gather all the necessary information on the situation of children in the various areas covered by the Convention, including in relation to children belonging to the most vulnerable groups.

20. The Committee encourages the Government of Ukraine to pay particular attention to the full implementation of article 4 of the Convention and to ensure a judicious distribution of the resources at the central, regional and local levels. Budgetary allocations for the implementation of economic, social and cultural rights should be ensured during the period of transition to market economy to the maximum extent of available resources and in the light of the best interests of the child.

21. The Committee is of the opinion that systematic and continuous steps are required to make the provisions and principles of the Convention widely known and understood by adults and children alike, in the light of the Convention. The Convention on the Rights of the Child should be made available in all the languages spoken by minorities in Ukraine and specific training should be provided to all professional groups working with children (judges, teachers, social workers, law enforcement officials, etc.). In the light of the United Nations Decade for Human Rights Education, attention should be given to incorporating the Convention in the school curriculum. The Committee encourages the State party to give further consideration to the establishment of an ombudsperson for children, or of any equivalent permanent and independent complaint and monitoring mechanism. The participation of children themselves in the promotion of the rights of the child is of great importance, especially at the community level.

22. In the light of article 2 of the Convention, measures should be taken to prevent a rise in discriminatory attitudes or prejudices towards children belonging to minority groups, children living in rural areas, Roma children and children afflicted with HIV/AIDS.

23. The Committee would like to see a stronger emphasis placed on primary health care activities, especially in rural areas, which would include the development of educational programmes to cover such matters as family education, family planning, sex education and the benefits of breast-feeding.

24. The Committee encourages international support for measures to cope with the negative consequences of the Chernobyl nuclear disaster, in particular in the social, health and environmental areas.

25. The Committee considers that greater efforts should be made to develop awareness of the important role of the family and of the equal responsibilities of parents. Further steps should be taken to strengthen the system of assistance to both parents in the performance of their child-rearing responsibilities.

26. In view of the high rate of abandonment of children and of abortion, the Committee recommends that the State party adopt a strategy and policy to

assist vulnerable families for the support of their children. The adequacy of the current social security system and of the family planning programmes should be evaluated. The Committee also recommends the training of social workers with the aim of mobilizing and strengthening communities.

27. The Committee encourages the State party to address the situation of children in institutions, with a view to envisaging and making available possible alternatives to institutional care through, for example, guidance and counselling, foster care and education and vocational training programmes. The Committee also recommends the establishment of effective monitoring mechanisms of the realization of the rights of the child placed in an institution.

28. With regard to the sale and trafficking of children, the Committee encourages the Government to clearly prohibit this illegal activity and to ensure that the right of the child to have his/her identity preserved is fully endorsed. The Committee also recommends that the State party consider the ratification of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

29. The Committee further suggests that the clear prohibition of torture or other cruel, inhuman or degrading treatment or punishment, as well as a ban on corporal punishment in the family, be reflected in the national legislation. The Committee also suggests the development of procedures and mechanisms to monitor complaints of maltreatment and cruelty within or outside the family. Special programmes should be set up to promote physical and psychological recovery and social reintegration of child victims of any form of neglect, abuse, exploitation, torture or ill-treatment in an environment which fosters the health, self-respect and dignity of the child, in the light of article 39 of the Convention.

30. The Committee recommends that the State party envisage the possibility of transferring the supervision of correctional labour colonies for juveniles from the Ministry of the Interior to the structure it may consider the most appropriate to ensure the promotion and protection of children's rights.

31. In the field of the administration of juvenile justice, the Committee recommends that the current legal reform take fully into account the Convention on the Rights of the Child, in particular articles 37, 39 and 40, and that other relevant international standards in this field, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty be seen as a guide in this revision. Particular attention should be paid to the prevention of juvenile delinquency, the protection of the rights of children deprived of liberty, respect for fundamental rights and legal safeguards in all aspects of the juvenile justice system and the full independence and impartiality of the juvenile judges. Training programmes on the relevant international standards should be organized for all those professionals involved with the system of juvenile justice, in particular judges, law enforcement officials, correctional officers and social workers.

32. The Committee encourages the State party to disseminate widely the State party's report, summary records of the discussion of the report within the Committee and the concluding observations adopted by the Committee following its consideration of the report. The Committee would like to suggest that these documents be brought to the attention of Parliament and that the suggestions and recommendations for action contained therein be followed up. In this regard, the Committee suggests that cooperation with non-governmental organizations be pursued.

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COMMITTEE ON THE RIGHTS OF THE CHILD

Tenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Germany

1. The Committee considered the initial report of Germany (CRC/C/11/Add.5) at its 243rd to 245th meetings (CRC/C/SR.243-245), held on 6 and 7 November 1995, and adopted* the following concluding observations:

A. Introduction

2. The Committee notes that the report prepared by the State party offered a comprehensive explanation of the legislative framework for the implementation of the Convention; however, it did not contain sufficient information on the actual implementation of the principles and provisions of the Convention throughout the country. The Committee, therefore, expresses its appreciation for the frank and self-critical approach of the delegation to answering the questions raised by the Committee and for the clarifications regarding the measures being taken and envisaged for the implementation of the Convention. The Committee welcomes the constructive discussion and exchange of views with the delegation.

B. Positive factors

3. The Committee welcomes the statement by the delegation expressing the willingness of the State party to consider reviewing the declarations made to the Convention with a view to their possible withdrawal.

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* At the 259th meeting, held on 17 November 1995.

4. The Committee welcomes the declaration made by the State party that the participation of children aged 15 and over as soldiers in armed conflict is not compatible with the best interests of the child, as well as the willingness of the Government to support the drafting of an optional protocol to the Convention in this area. The State party's support for the international call for a ban on the manufacturing and trade in anti-personnel land-mines is also warmly welcomed.

5. The Committee notes with satisfaction that a committee of experts has been established to prepare a comprehensive picture of the actual situation of children in Germany and has embarked upon its work, with a view to contributing to the Child and Youth report to be presented to the Bundestag and Bundesrat.

6. The Committee acknowledges the determination of the State party to prevent and combat xenophobic tendencies and manifestations of racism. The Government is to be commended for the extensive efforts undertaken to ensure the involvement of and effective cooperation between the Federal, Länder and local authorities in the implementation of a country-wide campaign to prevent and combat such phenomenon and to promote ethnic and racial harmony, in the general framework of the Youth Campaign launched by the Council of Europe.

7. The Committee also appreciates the willingness of the State party to undertake research and additional measures for the early detection and prevention of violence and sexual abuse within the family. Equally, the Committee welcomes the State party's willingness to organize initiatives to educate the media about the need to protect children from harmful influences.

8. The measures being taken by the Government to prepare the ground for the future ratification by Germany of the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption are welcomed.

9. The Committee acknowledges the efforts made by the State party with a view to accepting comparatively large numbers of refugees and asylum-seekers, particularly from the former Yugoslavia.

10. With regard to the efforts undertaken by the State party to combat the sexual exploitation of children, the Committee notes with satisfaction that the Criminal Law has been extended to make sexual abuse of children abroad a criminal offence. In addition, note is taken of the recent measures to make the possession of pornographic materials featuring children a punishable offence.

11. The Committee takes note with appreciation of the support of the State party for the International Labour Organization's programme for the elimination of child labour.

12. The Committee notes with interest that as of 1996 every child in Germany will have the legal right to a place in a kindergarten.

D. Principal subjects of concern

13. The Committee regrets the extent of the declarations made by the State party to the Convention. It is the view of the Committee that several of the declarations made raise concern as to their implications and compatibility with the full enjoyment of the rights recognized by the Convention.

14. It is a matter of concern to the Committee that insufficient attention appears to have been given to the matter of the establishment of an effective coordination and monitoring mechanism at the Federal, Land and local levels for the implementation of the Convention. Such a mechanism is of essential importance for the evaluation and promotion of the development of policies and programmes for the benefit of children, in the light of the Convention.

15. The Committee is concerned about the insufficient awareness and understanding among adults and children of the principles and provisions of the Convention.

16. While acknowledging the clearly stated commitment of the State party to take the Convention as the framework for action on behalf of the child, the Committee is concerned at the insufficient reflection given to the child as a subject of rights as provided for in the Convention in national legislation, policy and programmes. In this regard, it is of concern to the Committee that the incorporation of the general principles of the Convention as laid down, inter alia, in its articles 2 and 3 appears to have been neglected.

17. With respect to the implementation of articles 12, 13 and 15 of the Convention insufficient attention has been accorded to ensuring the involvement of children in decisions, including within family, and in administrative and judicial procedures regarding them.

18. The Committee recognizes that while considerable efforts have been undertaken by the Government and substantial progress has been achieved in ensuring complete unity between the old and new Länder, the goals of equalizing living conditions and establishing comparable structures for child and youth services throughout the country remain to be accomplished. Thus, the Committee remains concerned about the prevailing disparities in living standards and in the quality of services between the different Länder and about the difficulties faced by particularly vulnerable groups in society, such as children born out of wedlock and single-parent families.

19. The Committee remains concerned about the extent to which account is taken of the special needs and rights of children in asylum-seeking and refugee situations. Procedures governing asylum-seeking children, particularly those relating to family reunification, expulsion of children to safe third countries and the "airport regulation" give cause for concern. In this respect the Committee notes that the guarantees provided for in the Convention, in particular in its articles 2, 3, 12, 22 and 37 (d) do not appear to be complied with, while insufficient attention seems to have been ensured to the implementation of articles 9 and 10 of the Convention. The Committee also notes with concern that the provision of medical treatment

and services to asylum-seeking children does not appear to be interpreted in the light of the principles and provisions of the Convention, in its articles 2 and 3.

20. With regard to matters relating to juvenile justice, the Committee expresses its concern about the declaration made by the State party to article 40 (2) (b) (ii) which appears to limit the child's rights to access to justice and to a fair hearing as well as the right to legal assistance and defence.

E. Suggestions and recommendations

21. The Committee warmly welcomes the information provided by the State party that consideration is being given to the incorporation of the Convention on the Rights of the Child in the Constitution of Germany and, in this spirit, it encourages the State party to pursue the ongoing efforts aiming at according constitutional status to the Convention.

22. The Committee recommends that the State party pursue the review of the declarations entered to the Convention with a view to considering their withdrawal. The Committee is of the opinion that, in the light of proposed reforms to national legislation, it would appear that such declarations are unnecessary; doubts are raised as to their compatibility with the Convention.

23. The Committee suggests that the State party give further consideration to the establishment of a permanent and effective coordination mechanism on the rights of the child at the Federal, Land and local levels. Consideration should also be given to the development of an evaluation and monitoring system, addressing all areas covered by the Convention based on the comprehensive and systematic collection of data and ensuring priority attention to the most vulnerable groups, while bridging prevailing economic and social disparities. The Committee is encouraged by the State party's commitment to continue fostering closer cooperation and dialogue with the non-governmental organizations and children's groups involved in the monitoring and implementation of children's rights. The Committee also encourages the State party to look more closely into the work of the Ombuds institution for children, particularly with respect to its potential contribution for monitoring the implementation of the rights of the child.

24. With respect to article 4 of the Convention, the Committee emphasizes the importance of the allocation of resources to the maximum extent for the implementation of economic, social and cultural rights of the child at Federal, Land and local levels, in the light of the principles of the Convention, in particular those of its articles 2 and 3 relating to non-discrimination and the best interests of the child.

25. While acknowledging the strong commitment of Germany to providing structural assistance to third countries, the Committee would like to encourage the State party in its efforts to achieve the 0.7 per cent target for international assistance to developing countries, as well as to give consideration to the use of debt conversion and forgiveness measures in favour of programmes to improve the situation of children. In this respect, the Committee emphasizes that the undertaking of a study on the impact on

children of a State party's international cooperation and development assistance programmes has proved a useful tool in evaluating the effectiveness of such initiatives for the implementation of the Convention on the Rights of the Child.

26. The Committee notes with satisfaction the acknowledgement by the State party that a key area of attention should be the development of a comprehensive and systematic strategy for disseminating information and creating awareness of the rights of the child. The development of public campaigns through the use of the media and the involvement of the civil society, including non-governmental organizations and children's groups, would contribute to effectively addressing the need to increase understanding and to promote respect for the rights of the child.

27. The Committee recommends that the State party make full use of the opportunity offered by the United Nations Decade for Human Rights Education, to pursue further the preparation of educational materials on human and children's rights and the incorporation of human rights education, particularly about the rights of the child, into school curricula and into the training programmes of professional groups working with or for children, including teachers, judges, lawyers, social workers, health service personnel, police and immigration officials.

28. The Committee is encouraged by the State party's proposed reform of national legislation in the light of article 2 of the Convention, inter alia to ensure that children born out of wedlock are not discriminated against. The Committee, therefore, recommends that the efforts to harmonize legislation with the provisions and principles of the Convention be further pursued and that the State party continue to give priority to reflect in its legislation and policies the general principles of the Convention, particularly those laid down in articles 2 (non-discrimination) and 3 (best interests of the child).

29. The Committee notes that provisions of the Convention relating to the participation of children, including its articles 12, 13 and 15, need to be more thoroughly considered and encouraged. To this end information and awareness campaigns should be developed. Similarly, the Committee recommends that consideration be given to extending and broadening the involvement of children in decisions affecting them in the family and in social life, including in proceedings relating to family reunification and adoption.

30. Appreciation is expressed of the State party's acknowledgement of using the Convention on the Rights of the Child as an instrument to sharpen awareness of the responsibilities of persons taking care of children and the need to equalize the responsibilities between parents in bringing up their children. The Committee encourages the State party to pursue its efforts towards changing attitudes with a view to eradicating all forms of violence against children, including the use of corporal punishment within the family. In this regard, it further encourages that, in the ongoing process of reform of the Civil Code, consideration be given to the incorporation of an absolute ban on corporal punishment.

31. Taking note of the allocation of additional resources to family-related benefits and of the willingness to undertake other measures to achieve further

progress in addressing the problems facing single parents, and recognizing the State party's commitment to undertake measures to improve poorer children's access to out-of-school activities, including leisure activities, the Committee believes that greater priority should be given to an analysis of the occurrence of child poverty. Such an analysis should be undertaken from a holistic perspective, taking into account the possible linkages between such matters as housing conditions, family support to the child at home and in school, and the risk of dropping out of school. The results of this research could serve as a vehicle for discussion of these matters both in Parliament and with the relevant authorities as well as for the development of a more comprehensive and integrated approach for responding to the problems identified.

32. The Committee suggests that the State party undertake more comprehensive research on the possible effects of environmental pollution on the health of children.

33. The Committee is of the opinion that the issue of asylum-seeking and refugee children deserves further study with a view to its reform in the light of the Convention and of the concerns expressed during the discussion with the Committee. Such initiatives should reflect, inter alia, on the procedures, especially as they affect children 16 to 18, which govern the expulsion of children to third safe countries, family reunification and the "airport regulation" as to their compatibility with the provisions and principles of the Convention, in particular those of its articles 2, 3, 5, 9 paragraph 3, 10, 12, 22 and 37 (d).

34. Note is taken of the Government's intention to reform the system of juvenile justice, including with regard to considering strengthening the services and the development of child-friendly proceedings for dealing with child victims and witnesses. It is also noted that the elimination of the possibility of applying an indeterminate sentence on juveniles has been taken into account in the context of this reform. Additionally within this framework, the Committee expresses the hope that the declarations made by the State party to article 40 (2) (b) (ii) and (v) will be reviewed with a view to their possible withdrawal.

35. The Committee also recommends that a plan of action with time-bound targets be prepared for the undertaking of the legislative reform, policies and action to implement fully the provisions and principles of the Convention. The Committee suggests that the occasion of the Child and Youth report to be presented by the Federal Government to the Bundestag and Bundesrat be used to generate a debate by parliamentarians of the issues facing children in the State party and to determine policies to address these matters.

36. The Committee recommends that the State party's report to the Committee, the summary records of the discussion of the report and the concluding observations adopted by the Committee be widely disseminated in the country with a view to promoting wider awareness of children's rights, including at the Land and local levels, among the authorities, non-governmental organizations, relevant professional groups and the community at large, including children.